

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>EDWIN T. ANSELM ET AL,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 51246</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 15, 2009, Debra A. Baumbach and MaryKay Kelley presiding. Elwin T. Anselmi appeared pro se for Petitioners. Respondent was represented by James Burgess, Esq. Petitioner is requesting an abatement/refund of taxes for tax year 2007.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**6360 West 56<sup>th</sup> Avenue, Arvada, Colorado  
(Jefferson County Schedule No. 003739)**

The subject property is a 0.837-acre site with a 676 square foot tenant-occupied residence.

Respondent assigned residential classification and an actual value of \$183,290.00 for tax year 2007. Petitioners are requesting agricultural classification.

Mr. Anselmi testified that the intended use of the subject site was a vineyard irrigated by deeded ditch water. A multi-year drought beginning in 2003, however, suspended the flow of water. No cuttings were planted in 2004, and 2005 plantings did not survive. Some vine cuttings were sold from 2006 plantings, but most died. In 2007, the flow of ditch water was additionally impacted by major road work by the City of Arvada, and nothing was planted.

Petitioners argued that the reasons for non-productivity in 2005, 2006 and 2007 were drought and city construction, both impacting irrigation. Taxes were filed showing losses. Petitioners argued agricultural classification should not be discontinued when fault does not lie with the owners.

Respondent argued that primary use of the subject property was rental income from the residential structure, that grape vines were last observed in 2005, and that no documentation by an appropriate authority was provided regarding non-farming.

Petitioners did not present sufficient probative evidence and testimony to prove that the subject property was incorrectly classified for tax year 2007. Petitioners did not present evidence that non-use of the land was approved by an appropriate authority. *See* Section 39-1-102(1.6)(a)(I). The Board is not convinced that Petitioners' use of the property qualifies as agricultural for tax year 2007.

### **ORDER:**

The petition is denied.

### **APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 5<sup>th</sup> day of November 2009.

BOARD OF ASSESSMENT APPEALS

*Debra A Baumbach*

Debra A. Baumbach

*MaryKay Kelley*

MaryKay Kelley

I hereby certify that this is a true  
and correct copy of the decision of  
the Board of Assessment Appeals.

*Heather Flannery*

Heather Flannery

